

1 GARY S. HANN, pro se
2 Debtor, Adversary Plaintiff
3 (175 Butterfield - NO MAIL!)
4 P.O. Box 711
5 Cathedral City, CA 92235-0711
6 734-480-4140
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10 UNITED STATES BANKRUPTCY COURT
11 CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE

12 IN RE HANN, GARY S.
13 Debtor.

Case No. 6:14-bk-22067-MW

Chapter 7

15 GARY S. HANN,

16 PLAINTIFF,

Adv. No. 6:15-ap-01006-MW

17 VS.

18 STATE OF MICHIGAN DEPARTMENT OF
19 TREASURY,

TIMELY MOTION FOR RELIEF AND/OR
TO ALTER OR AMEND THE COURT'S
MARCH 26, 2015 ORDER DISMISSING
ADVERSARY PROCEEDING

20 Defendant.

(HEARING DATE TO BE SET BY THE
COURT)

JURY TRIAL DEMANDED

1 TO THE HONORABLE MARK S. WALLACE, UNITED STATES
2 BANKRUPTCY JUDGE, AND ALL INTERESTED PARTIES:
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4
5 Now comes Debtor and Adversary Plaintiff Gary S. Hann,
6 who continues to demand a jury trial and who deposes and says as
7 follows:
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10 THIS MOTION IS TIMELY UNDER RULES 59(b) and 60(b)
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12
13 1. The Court's March 26, 2015 Order Dismissing Adversary
14 Proceeding was entered on March 26, 2015 and served by E-mail.

15 2. Fed.R.Civ.P. Rule 59(b) requires that a Motion to
16 Alter or Amend be filed within 10 days; Rule 60(b) permits filing
17 within a reasonable time period.
18

19 3. However, Fed.R.Civ.P. Rule 6(a) declares that, when
20 the "period of time prescribed is less than 11 days", intermediate
21 weekends and holidays are excluded. This would normally mean that
22 this Motion was due on April 9, 2015.

23 4. Further, though, Fed.R.Civ.P. Rule 6(e) also
24 requires adding 3 days when service was made by E-mail, as here.
25 Debtor Hann believes the deadline would thus nominally be Sunday,
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1 April 12, 2015, defaulting to the next business day the Court is
2 open, Monday, April 13, 2015.

3 5. Plaintiff Hann does not have the luxury of filing
4 electronically as do counsel and the Court; according to the
5 settled holdings of the United States Supreme Court, pro se
6 petitioners are to be given more latitude than highly trained
7 litigants.
8

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10 JURISDICTIONAL STATEMENT
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13 6. Pursuant to Fed.R.Bkr.P. Rule 7001(1), a proceeding
14 to recover money, and 28 U.S.C. Section 1334(b), this Court has
15 exclusive jurisdiction over this case which arises in and is
16 related to Plaintiff's bankruptcy proceeding under Title 11 of the
17 United States Code.
18

19 7. Plaintiff Hann is seeking through several adversary
20 proceedings to recover \$25,000-\$100,000 or more in excess of his
21 scheduled \$10,587 exemption; all such excess funds would
22 absolutely be a part of the Bankruptcy Estate and subject to
23 distribution by the Trustee.
24

25 8. Plaintiff Hann respectfully believes that the Court
26 misapprehended Hann's purpose herein, and was not aware that Hann
27 intends to obtain funds which may actually result in all Creditors
28

1 being paid in full. Thus, the Court's general citation of *In re*
2 *Menk*, a lengthy opinion with over 60 points of law, would not be
3 applicable to this matter where, in properly scheduled Adversary
4 Actions, there may be full restitution to Creditors.
5

6 9. This is a core proceeding and Plaintiff Hann consents
7 to entry of final orders or judgment by this Court; Plaintiff Hann
8 asserts standing to recover amounts due him for properly scheduled,
9 preexisting civil proceeding claims; Trustee Anderson has now been
10 notified of, and is currently considering, this and other of
11 Plaintiff Hann's civil claims on their merits along with his
12 assisting counsel Mr. Tom Polis, Esq.
13

14 10. Trustee Anderson has verbally agreed to opine on
15 the merits of Plaintiff Hann's proposed Adversary Actions when he
16 reaches a determination of their likelihood of recovering funds
17 for distribution to the legitimate Creditors herein.
18
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21 DEBTOR HANN'S PURPORTED FAILURE TO APPEAR AT STATUS
22 CONFERENCE
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24

25 11. On March 26, 2015, Debtor Hann diligently left home
26 with a half-hour to spare, leaving plenty of time to arrive at the
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28

1 Court; an unexpected traffic accident on the highway slowed Hann
2 considerably.

3 12. Nevertheless, Debtor Hann arrived at the door of
4 Courtroom 225 at 9:10 AM on March 26, well within limits generally
5 set by Judicial Forums to accommodate arrival issues not that fault
6 of the party involved.
7

8 13. When Debtor Hann arrived, the Courtroom was locked
9 tightly shut and nobody at all was present anywhere.
10

11 14. Defendant Counsel never informed Debtor Hann that
12 Counsel has made prior plans to appear by telephone, and Defendant
13 Counsel never contacted Plaintiff Hann until the 11th hour the day
14 before the Hearing, despite the requirement to have a Rule 26(f)
15 Conference at least 21 days in advance of the Hearing. Debtor
16 Hann could have also taken advantage of telephone appearance had
17 he been advised of the procedure.
18

19 15. It would be a Manifest Injustice to deny Debtor
20 Hann his proper day in Court to address the great and continuing
21 default of Defendant Michigan Department of Treasury herein.
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26 MERITORIOUS GROUNDS UNDER RULES 59(e) and 60(b)
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1 21. The Court's Motion and determination regarding
2 standing may have been based on the appearance that Debtor Hann
3 was only seeking funds from one or two smaller adversary defendants.

4 22. However, Debtor Hann's Schedule B - Personal
5 Property, No. 21 clearly lists several important claims, and at
6 the time of filing the value of these claims was not determinable.
7 Further, Schedule C also lists these causes of action and in
8 listing an exemption of only \$10,587.

9 23. The availability of claims in excess or in great
10 excess of \$10,587 absolutely do become distributable property of
11 the Bankruptcy Estate, a fact of which the Court was not fully
12 advised at the time it issued its Order.

13 24. Debtor Hann has now taken pains to consult Trustee
14 Anderson, and has been referred by the Trustee to an independent
15 counsel Mr. Tom Polis, who will assist Trustee Anderson in
16 evaluating Debtor Hann's significant adversary claims herein.

17 25. Consulting and advising the Trustee takes time and
18 several sets of eyes; Debtor Hann believes that he can further the
19 proper administration of justice and very possibly make all
20 legitimate Creditors herein whole, thus exceeding the bar for
21 relief set by Rule 60(b)(6).

MORE DEFINITE STATEMENT OF CAUSE OF ACTION

26. Debtor Hann respectfully seeks the opportunity to provide a more definite Complaint in this particular proceeding, as provided in Fed.R.Civ.P. Rule 15.

26. Defendant Michigan Department of Treasury has a Void Judgment against Debtor Hann, obtained in open and hostile violation of Debtor Hann's basic constitutional right to Due Process.

27. Nobody, particularly the State, has any authority to enter a judgment without providing the party an opportunity to be heard, and that denial, plus a clearly erroneous legal conclusion contrary to all settled legal opinion, was used by the State to cause great and continuing harm to Debtor and Adversary Plaintiff Hann.

RELIEF REQUESTED

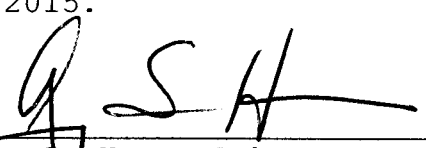
28. Debtor and Adversary Plaintiff Hann hereby requests that this Honorable Court forthwith find and order that:

- 1 a) Debtor Hann is excused for being but 10 minutes late
2 to the Status Conference herein.
- 3 b) Debtor Hann is granted an opportunity to respond to
4 the Court's unnoticed Motions made on March 26, 2015.
- 5 c) Debtors Hann's Answers to the Court's Motions on
6 Jurisdiction, Standing and Abandonment are
7 meritorious.
- 8 d) The Court's March 26, 2015 Order Dismissing Adversary
9 Proceeding is hereby set aside pending the opinion of
10 Trustee Anderson on the potential for recovering funds
11 for the Bankruptcy Estate in excess of the Exemptions
12 scheduled by Debtor Hann.

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14
15 PROOF OF SERVICE

16 29. Today I, Gary S. Hann, served this Pleading on
17 Defendant Michigan Department of Treasury by first class US mail
18 at its address of record, and also personally served this Pleading
19 on the Clerk of the Court and on the Chambers of Hon. Mark S.
20 Wallace.
21

22
23 Dated this 13th of April, 2015.

24
25 
26 _____
27 Gary S. Hann, Debtor
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